

FILED IN THE U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DEC 19 2023

SEAN F. MCAVOY, CLERK
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Vanessa R. Waldref
United States Attorney
Eastern District of Washington
Patrick J. Cashman
Courtney Pratten
Assistant United States Attorneys
Post Office Box 1494
Spokane, WA 99210-1494
Telephone: (509) 353-2767

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Case No.: 1:23-CR-2055-SAB-1

Plaintiff,

Plea Agreement

v.

FORREST ETHAN WANOUS,

Defendant.

Plaintiff United States of America, by and through Vanessa R. Waldref, United States Attorney the Eastern District of Washington, and Patrick J. Cashman and Courtney Pratten, Assistant United States Attorneys for the Eastern District of Washington, and Defendant Forrest Ethan Wanous ("Defendant"), both individually and by and through Defendant's counsel, Deputy Federal Defender Alex B. Hernandez, III, agree to the following Plea Agreement.

1. Guilty Plea and Maximum Statutory Penalties

Defendant agrees to enter a plea of guilty to the sole count of the Information filed on December 19, 2023, which charges Defendant with Violence against Railroad Carriers, in violation of 18 U.S.C. § 1992(a)(1), a Class C felony.

Defendant understands that the following potential penalties apply:

- a. a term of imprisonment of up to 20 years;

- b. a term of supervised release of up to 3 years or probation of up to 5 years;
- c. a fine of up to \$250,000;
- d. restitution; and
- e. a \$100 special penalty assessment.

2. Supervised Release/Probation

Defendant understands that if Defendant violates any condition of Defendant's supervised release, the Court may revoke Defendant's term of supervised release, and require Defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on post-release supervision, up to the following terms:

- a. 5 years in prison if the offense that resulted in the term of Supervised Release is a class A felony,
- b. 3 years in prison if the offense that resulted in the term of Supervised Release is a class B felony, and/or
- c. 2 years in prison if the offense that resulted in the term of Supervised Release is a class C felony.

Accordingly, Defendant understands that if Defendant commits one or more violations of supervised release, Defendant could serve a total term of incarceration greater than the maximum sentence authorized by statute for Defendant's offense or offenses of conviction.

Additionally, Defendant understands that if the Court imposes a sentence of probation, the term of probation may be up to 5 years. Defendant understands that if Defendant violates any condition of probation, the Court may revoke probation and require Defendant to serve in prison a term up to the statutory maximum sentence set forth in this Plea Agreement. Defendant understands that if Defendant violates probation and the Court imposes a custodial sentence, the Court may also

1 impose a term of supervised release following incarceration that may be up to the
2 statutory maximum term of supervised release authorized by statute for the offense
3 or offenses of conviction, without credit for time previously served on probation or
4 supervision. Accordingly, Defendant understands that if Defendant violates one or
5 more conditions of probation, Defendant could serve a total term of incarceration
6 greater than the maximum sentence authorized by statute for Defendant's offense
7 or offenses of conviction.

8 3. The Court is Not a Party to this Plea Agreement

9 The Court is not a party to this Plea Agreement and may accept or reject it.
10 Defendant acknowledges that no promises of any type have been made to
11 Defendant with respect to the sentence the Court will impose in this matter.

12 Defendant understands the following:

- 13 a. sentencing is a matter solely within the discretion of the Court;
- 14 b. the Court is under no obligation to accept any recommendations
15 made by the United States or Defendant;
- 16 c. the Court will obtain an independent report and sentencing
17 recommendation from the United States Probation Office;
- 18 d. the Court may exercise its discretion to impose any sentence it
19 deems appropriate, up to the statutory maximum penalties;
- 20 e. the Court is required to consider the applicable range set forth
21 in the United States Sentencing Guidelines, but may depart
22 upward or downward under certain circumstances; and
- 23 f. the Court may reject recommendations made by the United
24 States or Defendant, and that will not be a basis for Defendant
25 to withdraw from this Plea Agreement or Defendant's guilty
26 plea.

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1 4. Potential Immigration Consequences of Guilty Plea

2 If Defendant is not a citizen of the United States, Defendant understands the
3 following:

- 4 a. pleading guilty in this case may have immigration
5 consequences;
- 6 b. a broad range of federal crimes may result in Defendant's
7 removal from the United States, including the offense to which
8 Defendant is pleading guilty;
- 9 c. removal from the United States and other immigration
10 consequences are the subject of separate proceedings; and
- 11 d. no one, including Defendant's attorney or the Court, can predict
12 with absolute certainty the effect of a federal conviction on
13 Defendant's immigration status.

14 Defendant affirms that Defendant is knowingly, intelligently, and voluntarily
15 pleading guilty as set forth in this Plea Agreement, regardless of any immigration
16 consequences that Defendant's guilty plea may entail.

17 5. Waiver of Constitutional Rights

18 Defendant understands that by entering this guilty plea, Defendant is
19 knowingly and voluntarily waiving certain constitutional rights, including the
20 following:

- 21 a. the right to a jury trial;
- 22 b. the right to see, hear and question the witnesses;
- 23 c. the right to remain silent at trial;
- 24 d. the right to testify at trial; and
- 25 e. the right to compel witnesses to testify.

26 While Defendant is waiving certain constitutional rights, Defendant
27 understands that Defendant retains the right to be assisted by an attorney through
28 the sentencing proceedings in this case and any direct appeal of Defendant's

1 conviction and sentence, and that an attorney will be appointed at no cost if
2 Defendant cannot afford to hire an attorney.

3 Defendant understands and agrees that any defense motions currently
4 pending before the Court are mooted by this Plea Agreement, and Defendant
5 expressly waives Defendant's right to bring any additional pretrial motions.

6 6. Elements of the Offense

7 The United States and Defendant agree that in order to convict Defendant of
8 Violence against Railroad Carriers, in violation of 18 U.S.C. § 1992(a)(1) the
9 United States would have to prove the following beyond a reasonable doubt.

- 10 a. *First*, on or about February 5, 2023, within the Eastern District
11 of Washington, Defendant knowingly and without lawful
12 authority or permission did disable railroad on-track equipment;
13 b. *Second*, any of the conduct required for the offense was
14 affecting a railroad carrier engaged in interstate or foreign
15 commerce; and

16 7. Factual Basis and Statement of Facts

17 The United States and Defendant stipulate and agree to the following: the
18 facts set forth below are accurate; the United States could prove these facts beyond
19 a reasonable doubt at trial; and these facts constitute an adequate factual basis for
20 Defendant's guilty plea.

21 The United States and Defendant agree that this statement of facts does not
22 preclude either party from presenting and arguing, for sentencing purposes,
23 additional facts that are relevant to the Sentencing Guidelines computation or
24 sentencing, unless otherwise prohibited in this Plea Agreement.

25 On February 5, 2023, Burlington Northern Sante Fe ("BNSF") railroad train
26 H-PASFRS1-01 ("victim train") stopped at the Wishram, Washington train station
27 after completing a leg of its journey between Pasco, Washington and Wishram,
28 Washington. The final destination of the victim train was California. The train at

1 the time was in the Eastern District of Washington. During the leg of the journey
2 between Pasco and Wishram, the train crew conducted seven brake checks,
3 resulting in no issues being found and the braking system functioning properly.
4 The train included approximately eight rail cars carrying Hazardous material.

5 While stopped at Wishram, the crew, consisting of a train conductor and
6 engineer, conducted a brake-functions check and confirmed the braking system
7 was operating properly. At approximately 4:15p.m., on February 5, 2023, the crew
8 started to proceed on its next leg, where it would travel along the Columbia River.
9 However, due to another train needing to clear the rail bridge, the victim train
10 stopped for approximately 45 minutes.

11 At approximately 4:30p.m., a blue Ford Taurus wagon, bearing Oregon
12 License Plate 281NNL was observed on security camera footage driving through
13 the Wishram train station parking lot. The vehicle can be seen parking near the
14 maintenance facility. Vehicles parking at the station are not uncommon while
15 trains are there because "Rail Fans" will often come to watch or photograph/video
16 the trains. After parking the vehicle, the driver of the blue Ford Taurus, later
17 identified as the Defendant Forrest Ethan Wanous, exited the driver's door and
18 goes to the tailgate of the car multiple times. Subsequently, the driver of the
19 Taurus was observed on security camera footage approaching numerous railcars
20 and going between the railcars. The individual depicted appeared to be a white
21 male, with dark hair, wearing a tan long-sleeve shirt and tan colored
22 pants/coveralls. The security video reflects the individual walked between the rail
23 cars for approximately 4 minutes. By 4:36p.m., the individual is observed entering
24 the blue Taurus and waiting in the parking lot for approximately thirty minutes
25 before leaving the parking lot.

26 After the Taurus left the station, the victim train was cleared to proceed.
27 However, the crew received an alert from the Distributed Power ("DP") indicating
28 a fault in the braking system. The DP is the push locomotive at the back of the

1 train. When there is a DP, the DP and front locomotive communicate via radio
2 frequencies. These systems will indicate whether the brake lines are functioning
3 properly and are pressurized. In this case, the crew received a notification the
4 system was not functioning properly. Upon receiving the alert, the Train Engineer
5 conducted a check of the rail cars and noticed one of the rail car's brake angle
6 cocks was turned to the incorrect position. The brake angle cocks needed to be
7 positioned correctly for the system to pressurize. The Engineer corrected the brake
8 angle cock and radioed the Train Conductor, who indicated that did not resolve the
9 issue. As it was approaching dark, the Engineer and Conductor switched, and the
10 Conductor conducted a further check of the train. The Conductor located two
11 more brake angle cocks that were in the incorrect position and one handbrake
12 (known as a "Stinger") partially enabled. Upon correcting the brake angle cocks
13 and hand brakes, the system was functioning properly, and the train was able to
14 proceed to its destination. The effected cars were rail cars 47, 48, and 49. There
15 were two other cars that appeared in the video to be contacted but did not have
16 their systems disabled. In speaking with the Engineer and Conductor, the brake
17 angle cocks are designed in such a way that you have to deliberately lift and turn
18 the mechanism to change the position of the valve. Thus, a bumpy ride would not
19 cause the brake angle cock to adjust.

20 Subsequently, the FBI conducted DNA swabbing of the effected rail cars.
21 However, no DNA profile was obtained.

22 Identification of the Defendant

23 BNSF police determined the vehicle was registered to Derek Wanous. The
24 FBI began conducting their investigation and collected records from surrounding
25 law enforcement agents. The FBI learned that on January 18, 2023, Derek Wanous
26 called to report that his father, the Defendant, had purchased a blue Ford Taurus
27 but registered it in Derek's name. Derek further reported that his father was
28 intoxicated and driving the vehicle around Goldendale without insurance.

1 The FBI further obtained additional security camera footage from the
2 Wishram train station and observed the Taurus appeared parked at the Pastime
3 Tavern prior to driving to the station. In the security camera footage, there appears
4 to be an individual wearing tan pants exiting and entering the Taurus and then
5 driving to the train station just prior to the events leading up to the train being
6 disabled.

7 SA Bodes contacted the owner of the Pastime Tavern and obtained video
8 footage from February 5, 2023, prior to the incident. This video footage depicts a
9 man wearing tan pants and a tan camouflage shirt entering and sitting at the bar.
10 SA Bodes showed the owner of the Tavern a photograph of Derek Wanous, who
11 she indicated she did not recognize. SA Bodes then showed her a photograph of
12 the Defendant, who she indicated she recognized and knew to be Forrest. She
13 further identified the individual in the tan outfit in the video as the Defendant.

14 Interview of the Defendant

15 SA Bodes determined that the Defendant was sentenced to 15 months in
16 Department of Corrections custody at Shelton, Washington for felony DUI. SA
17 Bodes went to Shelton and met with the Defendant. After advising the Defendant
18 of his rights, which he waived, the Defendant stated that he never had any contact
19 with trains. When confronted with photograph stills from the security camera
20 footage, the Defendant admitted that was his car, that the photographs depict him,
21 and that he did walk up to the train on February 5, 2023. However, the Defendant
22 denied having tampered with the train.

23 The Defendant now admits that he did tamper with and disable the on-track
24 railroad equipment based on the evidence. At the time of the incident, the
25 Defendant was intoxicated and has no recollection of tampering with the train.
26 The Defendant further stipulates that the on-track railroad equipment was engaged
27 in interstate or foreign commerce and at the time of the offense was carrying at
28 least one employee of BNSF.

1 8. The United States' Agreements

2 The United States Attorney's Office for the Eastern District of Washington
3 agrees not to bring additional charges against Defendant based on information in
4 its possession at the time of this Plea Agreement that arise from conduct that is
5 either charged in the Indictment or identified in discovery produced in this case,
6 unless Defendant breaches this Plea Agreement before sentencing.

7 9. United States Sentencing Guidelines Calculations

8 Defendant understands and acknowledges that the United States Sentencing
9 Guidelines ("U.S.S.G." or "Guidelines") apply and that the Court will determine
10 Defendant's advisory range at the time of sentencing, pursuant to the Guidelines.
11 The United States and Defendant agree to the following Guidelines calculations.

12 a. Base Offense Level

13 The United States and the Defendant agree that the base offense level for
14 Violence against Railroad Carriers, in violation of 18 U.S.C. § 1992(a)(1) is 9.
15 U.S.S.G. § 2A5.2(a)(4).

16 b. Specific Offense Characteristics

17 The United States and the Defendant do not believe any specific offense
18 characteristics apply.

19 c. Acceptance of Responsibility

20 The United States will recommend that Defendant receive a downward
21 adjustment for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a), (b), if
22 Defendant does the following:

- 23 i. accepts this Plea Agreement;
- 24 ii. enters a guilty plea at the first Court hearing that takes
25 place after the United States offers this Plea Agreement;
- 26 iii. demonstrates recognition and affirmative acceptance of
27 Defendant's personal responsibility for Defendant's
28 criminal conduct;

- iv. provides complete and accurate information during the sentencing process; and
- v. does not commit any obstructive conduct.

The United States and Defendant agree that at its option and on written notice to Defendant, the United States may elect not to recommend a reduction for acceptance of responsibility if, prior to the imposition of sentence, Defendant is charged with, or convicted of, any criminal offense, or if Defendant tests positive for any controlled substance.

d. No Other Agreements

The United States and Defendant have no other agreements regarding the Guidelines or the application of any Guidelines enhancements, departures, or variances. Defendant understands and acknowledges that the United States is free to make any sentencing arguments it sees fit, including arguments arising from Defendant's uncharged conduct, conduct set forth in charges that will be dismissed pursuant to this Agreement, and Defendant's relevant conduct.

e. Criminal History

The United States and Defendant have no agreement and make no representations about Defendant's criminal history category, which will be determined by the Court after the United States Probation Office prepares and discloses a Presentence Investigative Report.

10. Incarceration and Probation

The United States to recommend a sentence of no incarceration-credit for time served.

The United States and Defendant jointly agree to recommend 5 years of probation. Defendant agrees that the Court's decision regarding the conditions of Defendant's Probation is final and non-appealable; that is, even if Defendant is unhappy with the conditions of Probation ordered by the Court, that will not be a

1 basis for Defendant to withdraw Defendant's guilty plea, withdraw from this Plea
2 Agreement, or appeal Defendant's conviction, sentence, or any term of Probation.

3 The United States and Defendant agree to recommend that in addition to the
4 standard conditions of Probation imposed in all cases in this District, the Court
5 should also impose the following conditions:

- 6 a. The United States Probation Officer may conduct, upon
7 reasonable suspicion, and with or without notice, a search of
8 Defendant's person, residences, offices, vehicles, belongings,
9 and areas under Defendant's exclusive or joint control.
- 10 b. Defendant shall participate and complete such drug testing and
11 drug treatment programs as the Probation Officer directs.
- 12 c. Defendant shall complete mental health evaluations and
13 treatment, including taking medications prescribed by the
14 treatment provider. Defendant shall allow reciprocal release of
15 information between the Probation Officer and the treatment
16 provider. Defendant shall contribute to the cost of treatment
17 according to the Defendant's ability.

18 The Defendant reserves the right to request early termination of his term of
19 probation. The United States reserves the right to object to any request made by
20 the Defendant to terminate his term of probation early.

21 11. Criminal Fine

22 The United States and Defendant may make any recommendation
23 concerning the imposition of a criminal fine. Defendant acknowledges that the
24 Court's decision regarding a fine is final and non-appealable; that is, even if
25 Defendant is unhappy with a fine ordered by the Court, that will not be a basis for
26 Defendant to withdraw Defendant's guilty plea, withdraw from this Plea
27 Agreement, or appeal Defendant's conviction, sentence, or fine.

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1 12. Mandatory Special Penalty Assessment

2 Defendant agrees to pay the \$100 mandatory special penalty assessment to
3 the Clerk of Court for the Eastern District of Washington, pursuant to 18 U.S.C.
4 § 3013.

5 13. Payments While Incarcerated

6 If Defendant lacks the financial resources to pay the monetary obligations
7 imposed by the Court, Defendant agrees to earn money toward these obligations by
8 participating in the Bureau of Prisons' Inmate Financial Responsibility Program.

9 14. Additional Violations of Law Can Void Plea Agreement

10 The United States and Defendant agree that the United States may, at its
11 option and upon written notice to the Defendant, withdraw from this Plea
12 Agreement or modify its sentencing recommendation if, prior to the imposition of
13 sentence, Defendant is charged with or convicted of any criminal offense or tests
14 positive for any controlled substance.

15 15. Waiver of Appeal Rights

16 Defendant understands that Defendant has a limited right to appeal or
17 challenge Defendant's conviction and the sentence imposed by the Court.

18 Defendant expressly waives all of Defendant's rights to appeal Defendant's
19 conviction and the sentence the Court imposes.

20 Defendant expressly waives Defendant's right to appeal any fine, term of
21 supervised release or probation, or restitution order imposed by the Court.

22 Defendant expressly waives the right to file any post-conviction motion
23 attacking Defendant's conviction and sentence, including a motion pursuant to 28
24 U.S.C. § 2255, except one based on ineffective assistance of counsel arising from
25 information not now known by Defendant and which, in the exercise of due
26 diligence, Defendant could not know by the time the Court imposes sentence.

27 Nothing in this Plea Agreement shall preclude the United States from
28 opposing any post-conviction motion for a reduction of sentence or other attack

1 upon the conviction or sentence, including, but not limited to, writ of habeas
2 corpus proceedings brought pursuant to 28 U.S.C. § 2255.

3 16. Withdrawal or Vacatur of Defendant's Plea

4 Should Defendant successfully move to withdraw from this Plea Agreement
5 or should Defendant's conviction be set aside, vacated, reversed, or dismissed
6 under any circumstance, then:

- 7 a. this Plea Agreement shall become null and void;
8 b. the United States may prosecute Defendant on all available
9 charges;
10 c. The United States may reinstate any counts that have been
11 dismissed, have been superseded by the filing of another
12 charging instrument, or were not charged because of this Plea
13 Agreement; and
14 d. the United States may file any new charges that would
15 otherwise be barred by this Plea Agreement.

16 The decision to pursue any or all of these options is solely in the discretion
17 of the United States Attorney's Office.

18 Defendant agrees to waive any objections, motions, and/or defenses
19 Defendant might have to the United States' decisions to seek, reinstate, or reinitiate
20 charges if a count of conviction is withdrawn, set aside, vacated, reversed, or
21 dismissed, including any claim that the United States has violated Double
22 Jeopardy.

23 Defendant agrees not to raise any objections based on the passage of time,
24 including but not limited to, alleged violations of any statutes of limitation or any
25 objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth
26 Amendment.

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1 17. Integration Clause

2 The United States and Defendant acknowledge that this document
3 constitutes the entire Plea Agreement between the United States and Defendant,
4 and no other promises, agreements, or conditions exist between the United States
5 and Defendant concerning the resolution of the case.


6 This Plea Agreement is binding only on the United States Attorney's Office
7 for the Eastern District of Washington, and cannot bind other federal, state, or local
8 authorities.

9 The United States and Defendant agree that this Agreement cannot be
10 modified except in a writing that is signed by the United States and Defendant.

11 Approvals and Signatures

12 Agreed and submitted on behalf of the United States Attorney's Office for
13 the Eastern District of Washington.

14 Vanessa R. Waldref
15 United States Attorney

16 
17 _____
18 Patrick J. Cashman *for*
19 Assistant United States Attorney

12/19/2023

Date

1 I have read this Plea Agreement and I have carefully reviewed and discussed
2 every part of this Plea Agreement with my attorney. I understand the terms of this
3 Plea Agreement. I enter into this Plea Agreement knowingly, intelligently, and
4 voluntarily. I have consulted with my attorney about my rights, I understand those
5 rights, and I am satisfied with the representation of my attorney in this case. No
6 other promises or inducements have been made to me, other than those contained
7 in this Plea Agreement. No one has threatened or forced me in any way to enter
8 into this Plea Agreement. I agree to plead guilty because I am guilty.

9
10
11 Forrest Ethan Wanous

12 Forrest Ethan Wanous
13 Defendant

December 18 23

14 Date

15 I have read the Plea Agreement and have discussed the contents of the
16 agreement with my client. The Plea Agreement accurately and completely sets
17 forth the entirety of the agreement between the parties. I concur in my client's
18 decision to plead guilty as set forth in the Plea Agreement. There is no legal
19 reason why the Court should not accept Defendant's guilty plea.

20 Alex B. Hernandez, III

21 Alex B. Hernandez, III
22 Attorney for Defendant

12-18-23

23 Date
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